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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
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08/944,234 10/06/97 KUNZLER

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QM31/0510

EXAMINER

NGO, L

ART UNIT

PAPER NUMBER

3731

DATE MAILED: 05/10/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/944,234

Applicant(s)
Kunzler et al.

Examiner
Lien Ngo

Group Art Unit
3731



☒ Responsive to communication(s) filed on 1-7-99

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-17 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☒ Claim(s) 15-17 is/are allowed.

☒ Claim(s) 1, 2, and 5-14 is/are rejected.

☒ Claim(s) 3 and 4 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 10

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 4, 5, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Noiles (4,662,891). Noiles discloses a concave form cutter (10). Note that Noiles mills in directions transverse to the longitudinal axis of the device. Note that the intended use of the claimed device has been considered but does not serve to structurally distinguish the claim over the applied reference.

3. Claims 1, 5-7, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Frigg et al. (5,041,119). Frigg et al. disclosed a form cutter (1), a drive means (7), and a housing (4). Note that the intended use of the claimed device has been considered but does not serve to structurally distinguish the claim over the applied reference.

4. *Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Noiles. Noiles discloses the invention substantially as claimed as discussed above. However, Noiles does not disclose that the device is 9mm or smaller. It would have been obvious to one having ordinary skill in the art at the same time the invention was made to make the Noiles device smaller in order to be able to use the device on very small animals..

7. Claims 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frigg et al. Frigg et al. disclose the invention substantially as claimed as discussed above. However, Frigg et al. does not disclose the mechanical expedient of a belt drive. It is well known to drive rotary devices with a belt. It would have been obvious to one having ordinary skill in the art at the time the invention was made, in view of this well known use, to drive the device of Frigg et al. with a belt.

Allowable Subject Matter

8. Claims 3 and 4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 15-17 are allowable over the prior art of record..

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Conclusion

10.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien Ngo whose telephone number is (703) 305-0294. The examiner can normally be reached Monday through Friday from 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful. The examiner's supervisor, Michael Buiz, can be reached at (703)308-0871. The Group FAX number is (703) 305-3580.

Any inquiry of a general nature or relating to the status of the application should be directed to the Group receptionist at (703) 308-0858

LN

Lien Ngo

May 10, 1999


MICHAEL BUIZ
SUPERVISORY PATENT EXAMINER
GROUP 3300

5/10/99